UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TUFENKIAN IMPORT EXPORT VENTURES, INC., Plaintiff, vs. NASSIR MOHABER AKA NICK MOHABER, INDIVIDUALLY and d/b/a "NASSER LUXURY RUGS" and "NASSER FINE RUGS"; JOHN DOES 1-10; and UNKNOWN ENTITIES 1-10, Defendants.	Case No.: Judge: **COMPLAINT** **JURY TRIAL DEMANDED**

Plaintiff Tufenkian Import Export Ventures, Inc. ("Tufenkian" or Plaintiff) as and for its complaint against Defendants Nassir Mohaber AKA Nick Mohaber, individually and d/b/a "Nasser Luxury Rugs" and "Nasser Fine Rugs"; John Does 1-10; and Unknown Entities 1-10 ("Defendants") alleges the following:

NATURE OF THE ACTION

1. This is a suit for copyright infringement pursuant to 17 U.S.C. § 501.

2. Defendants participated in infringement of Plaintiff Tufenkian's copyright in its award-winning Luminance rug design by copying the rug and then selling the infringing rug via Defendant's website, and elsewhere, in violation of 17 U.S.C. § 501.

3. The aesthetic designs of Defendants' infringing products are so similar, indeed nearly identical, that it is apparent Defendants' willfully copied Plaintiff's award-winning Luminance rug design.

4. By creating, importing, distributing and selling or facilitating the creation, importation, distribution and sale of the infringing products, Defendants have infringed and continue to infringe Plaintiff's copyright registration in the Luminance rug design.

5. Plaintiff has been harmed by Defendants' infringement of the copyrights in the Luminance rug and seeks injunctive and monetary relief from this Court.

PARTIES

6. Tufenkian Import-Export Venture, Inc. ("Tufenkian") is a corporation organized and existing under the laws of New York with its principal place of business at 919 Third Avenue, New York, New York, 10022.

7. Plaintiff is the owner of the copyright registration at issue in this suit, as hereinafter described.

8. Upon information and belief, Defendant Nassir Mohaber AKA Nick Mohaber is the owner, controlling force and/or operator of "Nasser Luxury Rugs" and "Nasser Fine Rugs", unregistered business entities in California, among other unknown entities, with principal places of businesses at 522 North La Cienega Blvd., Los Angeles, California 90048 and 8500 Melrose Ave., # 107, West Hollywood, California 90069.

9. The true capacities and names of Defendants, whether individual, corporate and/or partnership entities, named herein as John Does 1-10 and Unknown Entities 1-10 are not currently known to Plaintiffs, but, upon information and belief, are associated with the Nasser Luxury Rug Defendants, are additional moving, active and conscious forces behind Defendants infringing conduct, as well as suppliers and others in the chain of distribution. Plaintiffs will identify these unknown John Does and Unknown Entities upon further discovery and investigation and will amend its pleadings accordingly.

JURISDICTION AND VENUE

10. This action is for Copyright Infringement pursuant to 17 U.S.C. § 501.

11. This Court has original and exclusive jurisdiction over this matter under 28 U.S.C. § 1338 as it involves claims arising under federal copyright law.

12. Alternatively, this Court has diversity jurisdiction over this matter because the parties are citizens of different states and the amount in controversy is in excess of $75,000 exclusive of interest and costs, pursuant to 28 U.S.C. § 1332.

13. Venue is proper in this District pursuant to 28 U.S.C. §1391 (b) and (c) because a substantial part of the events or acts giving rise to the claim occurred in this District; a substantial part of the property that is the subject of the action is situated in this District; and this District is the location of the principal place of the copyright holder.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

A. Plaintiff Produces the Luminance Rug Design

14. Plaintiff is the owner and manufacturer of high quality Tufenkian Artisan Carpets, recognized the world over for their unparalleled handmade character, premium materials, and timeless design.

15. In 2013, Plaintiff had an original rug design created for its "Nature Rocks" collection referred to as the "Luminance" Design (the "Luminance Rug Design"). *See* Exhibit A for the Cutsheet of the Luminance Rug Design as sold by Plaintiff.

16. Plaintiff is the owner of the entire right, title, and interest in the Luminance Rug Design and, accordingly, Plaintiff obtained a copyright registration for the Luminance Rug Design with the United States Copyright Office effective as of May 5, 2016 (Registration No. VA 2-003-255), as amended by Form CA. *See* Exhibit B for the Registration certificate and

Form CA for the Luminance Rug Design.

17. As seen in the photograph below, the Luminance Rug Design is designed in an interpretation of the texture of oxidized metal consisting of the following features: (1) overall abstract motif with no central focus set upon a mostly gray background; (2) repeating element of darker-colored vertical streaks staggered throughout the top, center and bottom of the design; and (3) splotches of lighter and darker hues enhancing the flaked metal theme.

Example of Plaintiff's Luminance Rug Design

18. The Luminance Rug Design is tremendously valuable and a core asset of Plaintiff. Specifically, the Luminance Rug Design is an award-winning design winning the "Best of Flooring Award" by Homes and Gardens UK.

19. Plaintiff's products bearing the Luminance Rug Design are sold via Tufenkian's authorized dealers throughout the United States. *See*, e.g., Exhibit C showing the Tufenkian

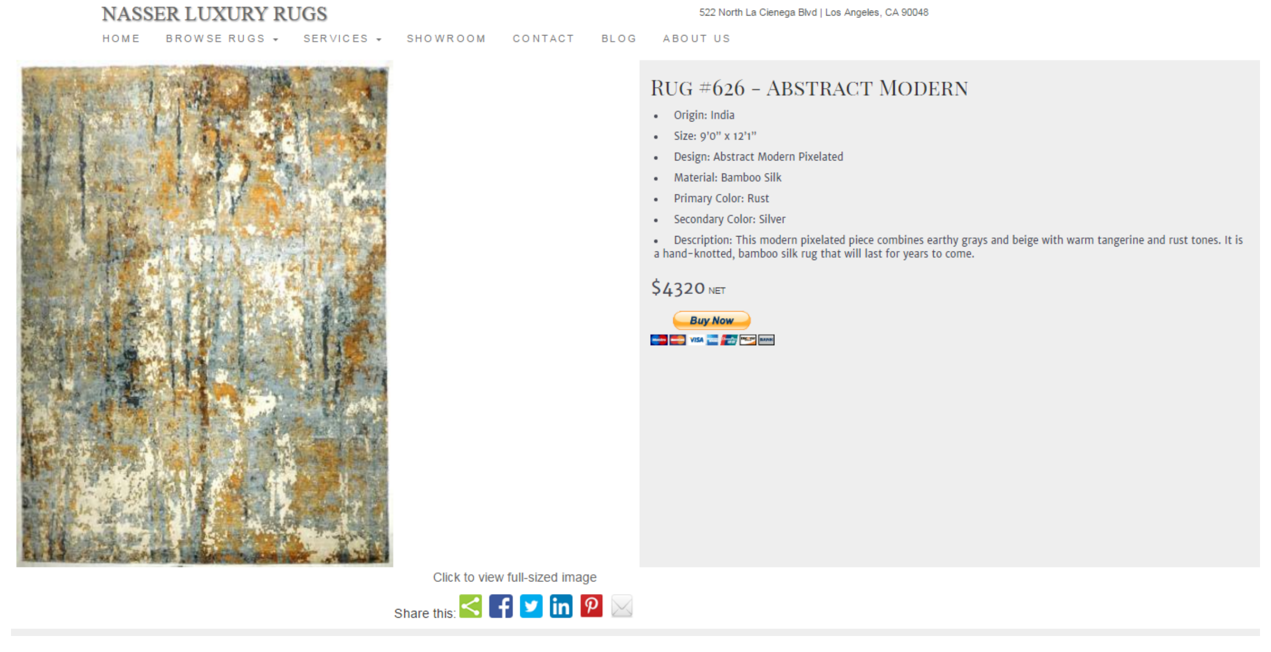
website page where the Luminance Rug Design is displayed and location of dealers.

20. Plaintiff has advertised the Luminance Rug Design in major publications including, for example, Architectural Digest. *See* Exhibit D showing the Luminance Rug Design advertisement.

B. Defendants' Copying of the Luminance Rug Design

21. After Plaintiff began selling its Luminance Rug Design in the United States, Plaintiff discovered that a retailer, Nasser Luxury Rugs, introduced for sale a rug designated as "Rug #626 - Abstract Modern" on its website which was nearly-identical in aesthetic design to the Luminance Rug Design, using nearly every one of the aforementioned details in its design ("Infringing Product"). *See* attached as Exhibit E a printout of the Defendants' website displaying the Infringing Product. As seen below, the Infringing Product listing from Defendants' website www.nasserluxuryrugs.com:

Infringing Product Listing


NASSER LUXURY RUGS
522 North La Cienega Blvd | Los Angeles, CA 90048
HOME
BROWSE RUGS
SERVICES
SHOWROOM
CONTACT
BLOG
ABOUT US
RUG #626 - ABSTRACT MODERN
Origin: India
Size: 9'0" x 12'1"
Design: Abstract Modern Pixelated
Material: Bamboo Silk
Primary Color: Rust
Secondary Color: Silver
Description: This modern pixelated piece combines earthy grays and beige with warm tangerine and rust tones. It is a hand-knotted, bamboo silk rug that will last for years to come.
$4320 NET
Buy Now
Click to view full-sized image
Share this:

22. Upon information and belief, Defendants had access to, and copied, the

Luminance Rug Design in knocking off and selling the Infringing Product, an example of which is pictured above and in Exhibit E.

23. As seen below, a side by side comparison of the Defendants' Infringing Product (below right) and Plaintiff's Luminance Rug Design (below left) clearly show a colorable imitation of Plaintiff's Luminance Rug Design including identical or near-identical design and details such as: (1) overall abstract motif with no central focus set upon a mostly gray background; (2) repeating element of darker-colored vertical streaks staggered throughout the top, center and bottom of the design; and (3) splotches of lighter and darker hues enhancing the flaked metal theme.

Plaintiff's Luminance Rug Design	**Defendants' Infringing Product Image**

See attached as Exhibit F additional photographs of Defendants' Infringing Product as compared to the Luminance Rug Design.

24. Due to Defendants' acts of infringement, Plaintiff has suffered damages due to Defendants' infringement of the Luminance Rug Design.

COUNT I
DIRECT COPYRIGHT INFRINGEMENT
PURSUANT TO 17 U.S.C. § 501(a)

25. Plaintiff repeats and realleges each of the allegations contained in Paragraphs 1 through 24 as if fully set forth herein.

26. Plaintiff has obtained copyright registrations with the U.S. Copyright Office for the Luminance Rug Design. *See* Exh. B.

27. Upon information and belief, Defendants had access to the Luminance Rug Design, including but not limited to access to Plaintiff's showrooms and website and advertisements for the Luminance Rug Design.

28. Without authorization from the Plaintiff, or right under law, Defendants unlawfully reproduced Plaintiff's Luminance Rug Design in a knock-off Infringing Product for commercial purposes and sold unauthorized copies of Plaintiff's Luminance Rug Design in violation of the Copyright Act, 17 U.S.C. § 106.

29. Upon information and belief, the Infringing Product is sold via Defendants' trade channels including its e-commerce website.

30. Upon information and belief, Defendants are actively involved in creating the supply of the Infringing Product, making that merchandise broadly available to the public, and selling the Infringing Product to the public. The Defendants further exercise active control over the distribution process, regulating the availability of products in their trade channels and determining which products to sell via their trade channels. For these reasons, among others, Defendants engage in active conduct in unlawfully distributing reproductions of Plaintiff's

Luminance Rug Design to the public.

31. The foregoing acts of infringement by the Defendants have been willful, intentional and purposeful, in disregard of and indifference to Plaintiff's rights.

32. As a direct and proximate result of Defendants' willful, intentional, purposeful and joint infringement of Plaintiff's copyrights, Plaintiff is entitled to damages.

33. Defendants should be permanently enjoined from advertising, selling and profiting from Plaintiff's Luminance Rug Design.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

A. That pursuant to 17 U.S.C. § 502 and the equity jurisdiction of this Court, Defendants and its officers, agents, employees, representatives, and all persons in privity therewith be preliminarily and permanently enjoined and restrained from using any and all goods colorably imitative of Plaintiff's Luminance Rug Design on or in connection with the importation, sale, offering for sale, distribution, exhibition, display, or advertising of its goods and services.

B. That pursuant to 17 U.S.C. § 503 and the equity jurisdiction of this Court, Defendants and their officers, agents, employees, representatives, and all persons in privity therewith be directed to turn over to this Court any plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies of the Plaintiff's Luminance Rug Design may be reproduced.

C. That pursuant to 17 U.S.C. § 503 and the equity jurisdiction of this Court, Defendants and their officers, agents, employees, representatives, and all persons in privity therewith be directed to turn over to this Court all records documenting the manufacture, sale, or receipt of things involved in violating Plaintiff's copyrights in the Luminance Rug Design.

D. That pursuant to 17 U.S.C. § 504, Defendants provide Plaintiff with an accounting of all Defendants' profits that are attributable to the infringement of Plaintiff's copyright as well as any violation under 15 U.S.C. § 1125(a), including all sales and gross revenue.

E. That Defendants be directed to pay over to Plaintiff any and all damages, including punitive damages, which it has sustained by consequence of Defendants' Copyright Infringement.

F. That Defendants be directed to pay over to Plaintiff any and all pre-judgment and post-judgment interest on each award for damages.

G. That, at the election of Plaintiff and as available, Defendants be directed to pay all statutory damages.

H. That this Court grant such other relief as it deems just and equitable.

JURY TRIAL DEMANDED

Plaintiff requests a jury trial on all claims.

Respectfully submitted,

By: /s/ Matthew C. Wagner

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Dated: November 22, 2016
Enc.: Exhibits A – F